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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

BRYON BASTIAN,

Defendant and Appellant.

F057555

(Super. Ct. No. 08CM8953)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kings County. Lynn C. Atkinson, Judge.

Linda J. Zachritz, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

*Before Dawson, Acting P.J., Hill, J., and Poochigian, J.

In July 2008, appellant, Bryon Bastian, was an inmate at Avenal State Prison. On July 29, 2008, at approximately 12:00 p.m., Correctional Officer Gary Swickard and other correctional officers conducted random strip searches for weapons and contraband of inmates on the yard, including Bastian. During the search, Swickard had Bastian squat and cough and then saw a blue object protruding from Bastian's rectum. Swickard had Bastian remove the object and place it on the ground. He then used latex gloves to pick up the object and place it in a "Sharp's" container. Swickard later examined the object in the office and found that it contained a makeshift syringe that included a cylinder, a plunger, and a needle.

On December 24, 2008, the district attorney filed an information charging Bastian with possession of a syringe by an inmate (Pen. Code, § 4573.6). The information also alleged that Bastian had a prior conviction within the meaning of the three strikes law (Pen. Code, §§ 667, subds. (b)-(i); 1170.12, subds. (a)-(d)).

On March 11, 2009, prior to the start of a jury trial in this matter, the court denied Bastian's *Marsden* (*People v. Marsden* (1970) 2 Cal.3d 118) motion. Following a short trial, the jury convicted Bastian of the charged offense. In a separate proceeding, Bastian admitted the prior conviction allegations.

On April 17, 2009, the court sentenced Bastian to a six-year term: the middle term of three years, doubled to six years because of Bastian's strike conviction.

Bastian's appellate counsel has filed a brief which summarizes the facts, with citations to the record, raises no issues, and asks this court to independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) Bastian has not responded to this court's invitation to submit additional briefing.

Following independent review of the record, we find that no reasonably arguable factual or legal issues exist.

The judgment is affirmed.